

REMARKS

The applicant respectfully requests reconsideration in view of the following remarks.

Claims 1-15, 17-19, 23, and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 2004/037887, cited with equivalent US 2006058494 (Busing et al.) in combination with US 20030164499 (Chen et al.) as evidences by US 5650456 (Yun et al.). The applicant respectfully traverses this rejection.

It is noted that WO 2004/037887 to Busing published in German and not English and therefore is only entitled to the May 6, 2004 publication date and not the October 17, 2003 PCT filing date. The applicant is in the process of procuring an English translation of the applicant's priority document (November 26, 2003) which the applicant believes will antedate Busing. The undersigned will submit the translation shortly after he receives it. Enclosed is a family search of WO 2004/037887 which indicates that the earliest publication is May 6, 2004.

The applicant points out that if the rejection is based on the U.S. counterpart of WO 2004/037887 (U.S. 2006/058494) then it can be overcome as long as it is 35 U.S.C. 102(e) prior art being applied under 35 U.S.C. 103 if it was co-owned at the time of filing this application. In accordance to the stated requirement pertaining to establishment of common ownership provisioned in MPEP § 706.02(l)(1), Applicants submit the following statement:

"Application **10/580,293** and Published Application US 2006/058494 were both owned by Covian Organic Semiconductors GmbH ("Covian") at the time the invention of Application **10/580,293** was made."

The patents and patent applications of Covian were later acquired by Merck Patent GmbH. Both of these applications are currently owned by Merck Patent GmbH. Therefore, Applicants respectfully submit that the aforementioned Busing et al. reference (US 2006/058494) does not qualify as a prior art reference for an obviousness rejection under 103(a). Therefore, if the primary reference does not qualify as prior art, then this rejection should be withdrawn.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00011-US from which the undersigned is authorized to draw.

Dated: October 29, 2008

Respectfully submitted,

Electronic signature: /Ashley I. Pezzner/
Ashley I. Pezzner
Registration No.: 35,646
CONNOLLY BOVE LODGE & HUTZ LLP
1007 North Orange Street
P. O. Box 2207
Wilmington, Delaware 19899-2207
(302) 658-9141
(302) 658-5614 (Fax)
Attorney for Applicant